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than only for the period after which the affiliation ceased .

§ 121.105 How does SBA define “business concern or concern”?

(a) A business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.

(b) A business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.

(c) A firm will not be treated as a separate business concern if a substantial portion of its assets and/or liabilities are the same as those of a predecessor entity. In such a case, the annual receipts and employees of the predecessor will be taken into account in determining size.

§ 121.106 How does SBA calculate number of employees?

(a) Employees counted in determining size include all individuals employed on a full-time, part-time, temporary, or other basis. SBA will consider the totality of the circumstances, including factors relevant for tax purposes, in determining whether individuals are employees of the concern in question.

(b) Where the size standard is number of employees, the method for determining a concern’s size includes the following principles:

(1) The average number of employees of the concern is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

(2) Part-time and temporary employees are counted the same as full-time employees.

(3) If a concern has not been in business for 12 months, the average number of employees is used for each of the pay periods during which it has been in business.

(4) The treatment of employees of former affiliates or recently acquired affiliates is the same as for size determinations using annual receipts in § 121.104(d).

§ 121.107 How does SBA determine a concern’s “primary industry”?

In determining the primary industry in which a concern or a concern combined with its affiliates is engaged, SBA considers the distribution of receipts, employees and costs of doing business among the different industries in which business operations occurred for the most recently completed fiscal year. SBA may also consider other factors, such as the distribution of patents, contract awards, and assets.

§ 121.108 What are the penalties for misrepresentation of size status?

In addition to other laws which may be applicable, section 16(d) of the Small Business Act, 15 U.S.C. 645(d), provides severe criminal penalties for knowingly misrepresenting the small business size status of a concern in connection with procurement programs. Section 16(a) of the Act also provides, in part, for criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing in any way the actions of the Agency.

SIZE STANDARDS USED TO DEFINE SMALL BUSINESS CONCERNS

§ 121.201 What size standards has SBA identified by Standard Industrial Classification codes?

The size standards described in this section apply to all SBA programs unless otherwise specified. The size standards themselves are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small. The following is a listing of size

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standards for industries under the SIC System. Size standards are listed by Division and apply to all industries in that Division except those specifically listed with separate size standards for a specific two-digit major group or

four-digit industry code. The industry code applicable to a business that cannot be otherwise classified will be SIC code 9999, Nonclassifiable Establishments, with a corresponding size standard of \$5.0 million in annual receipts.

SIZE STANDARDS BY SIC INDUSTRY

SIC code and description	Size standards in number of employees or millions of dollars
DIVISION A—AGRICULTURE, FORESTRY AND FISHING	
MAJOR GROUP 01—AGRICULTURAL PRODUCTION CROPS	\$0.5
MAJOR GROUP 02—LIVESTOCK AND ANIMAL SPECIALTIES	\$0.5
EXCEPT:	
0211 Beef Cattle Feedlots (Custom)	\$1.5
0252 Chicken Eggs	\$9.0
MAJOR GROUP 07—AGRICULTURAL SERVICES	\$5.0
MAJOR GROUP 08—FORESTRY	\$5.0
MAJOR GROUP 09—FISHING, HUNTING, AND TRAPPING	\$3.0
DIVISION B—MINING	
MAJOR GROUP 10—METAL MINING	500
MAJOR GROUP 12—COAL MINING	500
MAJOR GROUP 13—OIL AND GAS EXTRACTION AND MAJOR GROUP 14—MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS.	500
EXCEPT:	
1081 Metal Mining Services	\$5.0
1241 Coal Mining Services	\$5.0
1382 Oil and Gas Field Exploration Services	\$5.0
1389 Oil and Gas Field Services, N.E.C.	\$5.0
1481 Nonmetallic Minerals Services, Except Fuels	\$5.0
DIVISION C—CONSTRUCTION	
MAJOR GROUP 15—GENERAL BUILDING CONTRACTORS	\$17.0
MAJOR GROUP 16—HEAVY CONSTRUCTION, NON BUILDING	\$17.0
EXCEPT:	
1629 (Part) Dredging and Surface Cleanup Activities	\$13.5 ¹
MAJOR GROUP 17—CONSTRUCTION—SPECIAL TRADE CONTRACTORS	\$7.0
DIVISION D—MANUFACTURING,²	500
EXCEPT:	
2032 Canned Specialties	1,000
2033 Canned Fruits, Vegetables, Preserves, Jams and Jellies	500 ³
2043 Cereal Breakfast Foods	1,000
2046 Wet Corn Milling	750
2052 Cookies and Crackers	750
2062 Cane Sugar Refining	750
2063 Beet Sugar	750
2076 Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	1,000
2079 Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, N.E.C	750
2085 Distilled and Blended Liquors	750
2111 Cigarettes	1,000
2211 Broadwoven Fabric Mills, Cotton	1,000
2261 Finishers of Broadwoven Fabrics of Cotton	1,000
2295 Coated Fabrics, Not Rubberized	1,000
2296 Tire Cord and Fabrics	1,000
2611 Pulp Mills	750
2621 Paper Mills	750
2631 Paperboard Mills	750
2656 Sanitary Food Containers, Except Folding	750
2657 Folding Paperboard Boxes, Including Sanitary	750
2812 Alkalies and Chlorine	1,000
2813 Industrial Gases	1,000
2816 Inorganic Pigments	1,000
2819 Industrial Inorganic Chemicals, N.E.C	1,000
2821 Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750
2822 Synthetic Rubber (Vulcanizable Elastomers)	1,000
2823 Cellulosic Manmade Fibers	1,000

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description		Size standards in number of employees or millions of dollars
2824	Manmade Organic Fibers, Except Cellulosic	1,000
2833	Medicinal Chemicals and Botanical Products	750
2834	Pharmaceutical Preparations	750
2841	Soap and Other Detergents, Except Specialty Cleaners	750
2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	750
2869	Industrial Organic Chemicals, N.E.C.	1,000
2873	Nitrogenous Fertilizers	1,000
2892	Explosives	750
2911	Petroleum Refining	1,500 ⁴
2952	Asphalt Felts and Coatings	750
3011	Tires and Inner Tubes	1,000 ⁵
3021	Rubber and Plastics Footwear	1,000
3211	Flat Glass	1,000
3221	Glass Containers	750
3229	Pressed and Blown Glass and Glassware, N.E.C	750
3241	Cement, Hydraulic	750
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	750
3275	Gypsum Products	1,000
3292	Asbestos Products	750
3296	Mineral Wool	750
3297	Nonclay Refractories	750
3312	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills	1,000
3313	Electrometallurgical Products, Except Steel	750
3315	Steel Wiredrawing and Steel Nails and Spikes	1,000
3316	Cold-Rolled Steel Sheet, Strip, and Bars	1,000
3317	Steel Pipe and Tubes	1,000
3331	Primary Smelting and Refining of Copper	1,000
3334	Primary Production of Aluminum	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum	750
3351	Rolling, Drawing, and Extruding of Copper	750
3353	Aluminum Sheet, Plate, and Foil	750
3354	Aluminum Extruded Products	750
3355	Aluminum Rolling and Drawing, N.E.C	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	750
3357	Drawing and Insulating of Nonferrous Wire	1,000
3398	Metal Heat Treating	750
3399	Primary Metal Products, N.E.C	750
3411	Metal Cans	1,000
3431	Enameled Iron and Metal Sanitary Ware	750
3482	Small Arms Ammunition	1,000
3483	Ammunition, Except for Small Arms	1,500
3484	Small Arms	1,000
3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units	1,000
3519	Internal Combustion Engines, N.E.C	1,000
3531	Construction Machinery and Equipment	750
3537	Industrial Trucks, Tractors, Trailers, and Stackers	750
3562	Ball and Roller Bearings	750
3571	Electronic Computers	1,000
3572	Computer Storage Devices	1,000
3575	Computer Terminals	1,000
3577	Computer Peripheral Equipment, N.E.C	1,000
3578	Calculating and Accounting Machines, Except Electronic Computers	1,000
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment	750
3612	Power, Distribution, and Specialty Transformers	750
3613	Switchgear and Switchboard Apparatus	750
3621	Motors and Generators	1,000
3624	Carbon and Graphite Products	750
3625	Relays and Industrial Controls	750
3631	Household Cooking Equipment	750
3632	Household Refrigerators and Home and Farm Freezers	1,000
3633	Household Laundry Equipment	1,000
3634	Electric Housewares and Fans	750
3635	Household Vacuum Cleaners	750
3641	Electric Lamp Bulbs and Tubes	1,000
3651	Household Audio and Video Equipment	750
3652	Phonograph Records and Prerecorded Audio Tapes and Disks	750
3661	Telephone and Telegraph Apparatus	1,000
3663	Radio and Television Broadcasting and Communications Equipment	750

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SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
3669 Communications Equipment, N.E.C	750
3671 Electron Tubes	750
3692 Primary Batteries, Dry and Wet	1,000
3694 Electrical Equipment for Internal Combustion Engines	750
3695 Magnetic and Optical Recording Media	1,000
3699 Electrical Machinery, Equipment, and Supplies, N.E.C	750
3711 Motor Vehicles and Passenger Car Bodies	1,000
3714 Motor Vehicle Parts and Accessories	750
3716 Motor Homes	1,000
3721 Aircraft	1,500
3724 Aircraft Engines and Engine Parts	1,000
3728 Aircraft Parts and Auxiliary Equipment, N.E.C	1,000 ⁹
3731 Shipbuilding and Repair of Nuclear Propelled Ships	1,000
Shipbuilding of Nonnuclear Propelled Ships and Nonpropelled Ships	1,000
Ship Repair (Including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships East of the 108 Meridian.	1,000
Ship Repair (Including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships West of the 108 Meridian.	1,000
3743 Railroad Equipment	1,000
3761 Guided Missiles and Space Vehicles	1,000
3764 Guided Missile and Space Vehicle Propulsion Units and Propulsion Units Parts	1,000
3769 Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C	1,000
3795 Tanks and Tank Components	1,000
3812 Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments.	750
3996 Linoleum, Asphalted-Felt-Base, and other Hard Surface Floor Coverings, N.E.C	750
DIVISION E—TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	
MAJOR GROUP 40—RAILROAD TRANSPORTATION	1500
EXCEPT:	
4013 Railroad Switching and Terminal Establishments	500
MAJOR GROUP 41—LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION.	\$5.0
MAJOR GROUP 42—MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	\$18.5
EXCEPT:	
4212 (Part) Garbage and Refuse Collection, Without Disposal	\$6.0
4231 Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	\$5.0
MAJOR GROUP 44—WATER TRANSPORTATION	500
EXCEPT:	
4491 Marine Cargo Handling	\$18.5
4492 Towing and Tugboat Services	\$5.0
4493 Marinas	\$5.0
4499 Water Transportation Services, N.E.C.	\$5.0
—Offshore Marine Water Transportation Services	\$20.5
MAJOR GROUP 45—TRANSPORTATION BY AIR	1500
EXCEPT:	
4522 Air Transportation, Nonscheduled	1500
—Offshore Marine Air Transportation Services	\$20.5
4581 Airports, Flying Fields, and Airport Terminal Services	\$5.0
MAJOR GROUP 46—PIPELINES, EXCEPT NATURAL GAS,	1500
EXCEPT:	
4619 Pipelines, N.E.C.	\$25.0
MAJOR GROUP 47—TRANSPORTATION SERVICES,	\$5.0
EXCEPT:	
4724 Travel Agencies	\$1.0 ⁶
4731 Arrangement of Transportation of Freight and Cargo	\$18.5
4783 Packing and Crating	\$18.5
MAJOR GROUP 48—COMMUNICATIONS.	
4812 Radiotelephone Communications	1,500
4813 Telephone Communications, Except Radiotelephone	1,500
4822 Telegraph and Other Message Communications	\$5.0
4832 Radio Broadcasting Stations	\$5.0
4833 Television Broadcasting Stations	\$10.5
4841 Cable and Other Pay Television Services	\$11.0
4899 Communications Services, N.E.C.	\$11.0
MAJOR GROUP 49—ELECTRIC, GAS, AND SANITARY SERVICES,	\$5.0
EXCEPT:	
4911 Electric Services	4 million megawatt hrs.
4924 Natural Gas Distribution	500

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
4953 Refuse Systems	\$6.0
4961 Steam and Air-Conditioning Supply	\$9.0
DIVISION F—WHOLESALE TRADE	100
(Not Applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)	
DIVISION G—RETAIL TRADE	\$5.0
(Not Applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)	
EXCEPT:	
5271 Mobile Home Dealers	\$9.5
5311 Department Stores	\$20.0
5331 Variety Stores	\$8.0
5411 Grocery Stores	\$20.0
5511 Motor Vehicle Dealers (New and Used)	\$21.0
5521 Motor Vehicle Dealers (Used Only)	\$17.0
5541 Gasoline Service Stations	\$6.5
5599 Automobile Dealers, N.E.C.	\$5.0
—Aircraft Dealers, Retail	\$7.5
5611 Men's and Boys' Clothing and Accessory Stores	\$6.5
5621 Women's Clothing Stores	\$6.5
5651 Family Clothing Stores	\$6.5
5661 Shoe Stores	\$6.5
5722 Household Appliance Stores	\$6.5
5731 Radio, Television, and Consumer Electronics Stores	\$6.5
5734 Computer and Computer Software Stores	\$6.5
5812 (Part) Food Service, Institutional	\$15.0
5961 Catalog and Mail-Order Houses	\$18.5
5983 Fuel Oil Dealers	\$9.0
DIVISION H—FINANCE, INSURANCE, AND REAL ESTATE	\$5.0
EXCEPT:	
6021–6082 National and Commercial Banks, Savings Institutions and Credit Unions	\$100 Million in assets ⁷
6331 Fire, Marine, and Casualty Insurance	1,500
6515 (Part) Leasing of Building Space to Federal Government by Owners	\$15.0 ⁸
6531 Real Estate Agents and Managers	\$1.5 ⁶
DIVISION I—SERVICES	\$5.0
EXCEPT:	
7211 Power Laundries, Family and Commercial	\$10.5
7213 Linen Supply	\$10.5
7216 Drycleaning Plants, Except Rug Cleaning	\$3.5
7217 Carpet and Upholstery Cleaning	\$3.5
7218 Industrial Launderers	\$10.5
7311 Advertising Agencies	\$5.0 ⁶
7312 Outdoor Advertising Services	\$5.0 ⁶
7313 Radio, Television, and Publishers' Advertising Representatives	\$5.0 ⁶
7319 Advertising, N.E.C.	\$5.0 ⁶
7349 Building Cleaning and Maintenance Services, N.E.C.	\$12.0
7371 Computer Programming Services	\$18.0
7372 Prepackaged Software	\$18.0
7373 Computer Integrated Systems Design	\$18.0
7374 Computer Processing and Data Preparation and Processing Services	\$18.0
7375 Information Retrieval Services	\$18.0
7376 Computer Facilities Management Services	\$18.0
7377 Computer Rental and Leasing	\$18.0
7378 Computer Maintenance and Repair	\$18.0
7379 Computer Related Services, N.E.C.	\$18.0
7381 Detective, Guard, and Armored Car Services	\$9.0
7382 Security Systems Services	\$9.0
7389 Business Services, N.E.C.	\$5.0
Except, Map Drafting Services, Mapmaking (Including Aerial) and Photogrammetric Mapping Services.	\$4.0
7513 Truck Rental and Leasing Without Drivers	\$18.5
7514 Passenger Car Rental	\$18.5
7515 Passenger Car Leasing	\$18.5
7534 Tire Retreading and Repair Shops	\$10.5

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SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
7699 Repair Shops and Related Services, N.E.C	\$5.0 ⁹
7812 Motion Picture and Video Tape Production	\$21.5
7819 Services Allied to Motion Picture Production	\$21.5
7822 Motion Picture and Video Tape Distribution	\$21.5
8299 (Part) Flight Training Services	\$18.5
8711 Engineering Services	\$4.0
Military and Aerospace Equipment and Military Weapons	\$20.0
Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992	\$20.0
Marine Engineering and Naval Architecture	\$13.5
8712 Architectural Services (Other than Naval)	\$4.0
8713 Surveying Services	\$4.0
8721 Accounting, Auditing, and Bookkeeping Services	\$6.0
8731 Commercial Physical and Biological Research	500 ¹⁰
Aircraft	1,500
Aircraft Parts, and Auxiliary Equipment, and Aircraft Engines and Engine Parts	1,000
Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts	1,000
8741 (Part) Conference Management Services	\$5.0 ⁶
8744 Facilities Support Management Services	\$5.0 ¹¹
Base Maintenance	\$20.0 ¹²
Environmental Remediation Services	500 ¹³

Footnotes:

¹ SIC code 1629—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

² SIC Division D—Manufacturing: For rebuilding machinery or equipment on a factory basis, or equivalent, use the SIC code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not necessarily have to meet the criteria for being a “manufacturer” although the activities may be classified under a manufacturing SIC code. Ordinary repair services or preservation are not considered rebuilding.

³ SIC code 2033: For purposes of Government procurement for food canning and preserving, the standard of 500 employees excludes agricultural labor as defined in section 3306(k) of the Internal Revenue Code, 26 U.S.C. 3306(k).

⁴ SIC code 2911: For purposes of Government procurement, the firm may not have more than 1,500 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

⁵ SIC code 3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112, provided that:

(1) The value of tires within Census Classification codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture;

(2) The value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period; and

(3) the value of the principal product which it manufactured or otherwise produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

⁶ SIC codes 4724, 6531, 7311, 7312, 7313, 7319, and 8741 (part): As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

⁷ A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. *Assets* for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

⁸ SIC code 6515: Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of \$15.0 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

⁹ SIC codes 7699 and 3728: Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under SIC code 3728.

¹⁰ SIC code 8731: For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(1) Research and Development means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(2) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701.

(3) Research and development for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

¹¹ Facilities Management, a component of SIC code 8744, includes establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities management means furnishing three or more personnel supply services which may include, but are not limited to, secretarial services, typists, telephone answering, reproduction or mimeograph service, mailing service, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, switchboard operation, writers, bookkeeping, minor office equipment maintenance and repair, or use of information systems (not programming).

¹² SIC code 8744:

(1) If one of the activities of base maintenance, as defined in paragraph (2) of this footnote, can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(2) "Base Maintenance" requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate SIC code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as "Base Maintenance."

¹³SIC code 8744: (1) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(2) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate SIC codes or, in some instances (e.g., engineering), smaller sub-components of SIC codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services; Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate SIC code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

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SIZE ELIGIBILITY REQUIREMENTS FOR SBA FINANCIAL ASSISTANCE

§ 121.301 What size standards are applicable to financial assistance programs?

(a) For Business Loans and Disaster Loans (other than physical disaster loans), an applicant must not exceed the size standard for the industry in which:

(1) The applicant combined with its affiliates is primarily engaged; and

(2) The applicant alone is primarily engaged.

(b) For Development Company programs, an applicant must meet one of the following standards:

(1) Including its affiliates, tangible net worth not in excess of \$6 million, and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two completed fiscal years not in excess of \$2 million; or

(2) The same standards applicable under paragraph (a) of this section.

(c) For the Small Business Investment Company (SBIC) program, an applicant must meet one of the following standards:

(1) Including its affiliates, tangible net worth not in excess of \$18 million, and average net income after Federal income taxes (excluding any carry-over losses) for the preceding 2 completed

fiscal years not in excess of \$6 million; or

(2) The same standards applicable under paragraph (a) of this section.

(d) For Surety Bond Guarantee assistance—

(1) Any construction (general or special trade) concern or concern performing a contract for services is small if its average annual receipts do not exceed \$5.0 million.

(2) Any concern not specified in paragraph (d)(1) of this section must meet the size standard for the primary industry in which it, combined with its affiliates, is engaged.

(e) The applicable size standards for the purpose of all SBA financial assistance programs, excluding the Surety Bond Guarantee assistance program, are increased by 25 percent whenever the applicant agrees to use the assistance within a labor surplus area. Labor surplus areas are listed monthly in the Department of Labor publication called "Area Trends."

§ 121.302 When does SBA determine the size status of an applicant?

(a) The size of an applicant for SBA financial assistance is determined as of the date the application for such financial assistance is accepted for processing by SBA, except for the Disaster Loan and Preferred Lenders programs.

(b) For the Preferred Lenders program, size is determined as of the date of approval of the loan by the Preferred Lender.